

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

KENNY FOWLER,

Petitioner,

v.

No. 1:21-cv-01165-JDB-jay
Re: 1:14-cr-10082-JDB-1

JOHN YATES,

Respondent.

ORDER DISMISSING § 2241 PETITION,
DENYING DISCOVERY MOTIONS AS MOOT,
AND
DENYING LEAVE TO PROCEED IN FORMA PAUPERIS ON APPEAL

Petitioner, Kenny Fowler, filed a pro se habeas corpus petition (the “Petition”), pursuant to 28 U.S.C. § 2241. (Docket Entry (“D.E.”) 1.) He complains that the Federal Bureau of Prisons (the “BOP”) has miscalculated his federal sentence release date by two and one-half months, and he seeks an order directing the BOP to release him in March 2022. He also has submitted two motions for discovery. (D.E. 12 & 15.) The federal offender website shows that the BOP released Petitioner on March 30, 2022. There is therefore no relief that the Court can provide. As this action is moot, the Petition is DISMISSED. *See Clayton v. U.S. Army*, No. 3:09-CV-P71-S, 2010 WL 396251, at *1 (W.D. Ky. Jan. 25, 2010) (citing *Gray v. Dretke*, 135 F. App'x 711, 712 (5th Cir. 2005)) (“[F]ederal habeas claims for loss of good-time credit become moot when a petitioner is released.”); *Adames v. Quintana*, No. 5:11-CV-424-KSF, 2013 WL 182733, at *1 (E.D. Ky. Jan. 17, 2013) (§ 2241 jail-credits claim moot in light of prison officials’ subsequent restoration of credits). The motions for discovery are DENIED as moot.

A party seeking pauper status on appeal must first file a motion in the district court, along with a supporting affidavit. Fed. R. App. P. 24(a). However, if the district court certifies that an

appeal would not be taken in good faith, or otherwise denies leave to appeal in forma pauperis, the party must file his motion to proceed in forma pauperis in the appellate court. *See id.* The Court CERTIFIES that any appeal in this matter would not be taken in good faith. Leave to appeal in forma pauperis is therefore DENIED.¹

IT IS SO ORDERED this 7th day of April 2022.

s/ J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE

¹ A federal prisoner who challenges his custody pursuant to 28 U.S.C. § 2241 need not obtain a certificate of appealability under 28 U.S.C. § 2253(c)(1). *Durham v. United States Parole Comm'n*, 306 F. App'x 225, 229 (6th Cir. 2009). Nevertheless, if Fowler files a notice of appeal, he must pay the full \$505 appellate filing fee or file a motion to proceed in forma pauperis and supporting affidavit in the Sixth Circuit Court of Appeals within 30 days of the date of entry of this order. *See* Fed. R. App. P. (a)(5).